

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
:  
UNITED STATES OF AMERICA,  
:

-v-  
:

HUBERT DUPIGNY,  
:

Defendant.  
:  
-----X

18-CR-528-1 (JMF)

MEMORANDUM OPINION  
AND ORDER

JESSE M. FURMAN, United States District Judge:

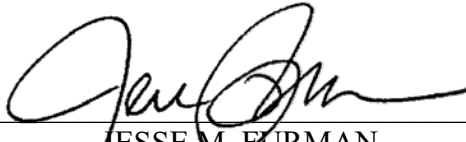
On February 2, 2023, Defendant, proceeding *pro se*, filed a motion, styled a motion to dismiss pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure. *See* ECF No. 401. The Federal Rules of Civil Procedure are inapplicable to this case, as it is a criminal proceeding. The Court deems Defendant's motion to be a motion to vacate his conviction pursuant to 28 U.S.C. § 2255 and denies the motion as frivolous. Put simply, the doctrines invoked by Defendant — standing, the political question doctrine, and so on — are inapplicable here. The Court plainly had subject-matter jurisdiction to adjudicate the charges brought by the United States under federal law against Defendant. Accordingly, the motion is DENIED.

As Petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. *See* 28 U.S.C. § 2253(c); *see also, e.g., Matthews v. United States*, 682 F.3d 180, 185 (2d Cir. 2012). In addition, this Court certifies, pursuant to Title 28, United States Code, Section 1915(a)(3), that any appeal from this Order would not be taken in good faith, and *in forma pauperis* status is thus denied. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

The Clerk of Court is directed to terminate ECF No. 401 and to mail a copy of this Order to Defendant at:

Reg. No. 56457-054  
FCI Gilmer  
P.O. Box 6000  
Glenview, WV 26351

Dated: February 3, 2023  
New York, New York

  
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JESSE M. FURMAN  
United States District Judge